Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Customs Court

Vol. 7 OCTOBER 10, 1973 No. 41

This issue contains

T.D. 73–267 through 73–270

C.D. 4469

Protest abstracts P73/861 through P73/878

Reap. abstracts R73/290

Tariff Commission Notice

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

The abstracts, rulings, and notices which are issued weekly by the U.S. Customs Service are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Facilities Management Division, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Price .55 cents (single copy). Subscription price: $28.50 a year; $7.25 additional for foreign mailing.

U.S. Customs Service

(T.D. 73-267)

Wool and manmade fiber textiles—Restriction on entry

Restriction on entry of wool and manmade fiber textile products in certain categories manufactured or produced in the Republic of China

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., September 19, 1973.

There is published below the directive of September 10, 1973, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, adjusting the charges made during the current year in certain categories contained in that Committe's directives of September 29, 1972 (T.D. 72-303), and November 14, 1972 (T.D. 72-324).

This directive was published in the Federal Register on September 12, 1973 (38 FR 25215), by the Committee.

(QUO-2-1)

JAMES D. COLEMAN,
Acting Director, Appraisement and Collections Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

September 10, 1973.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

To facilitate implementation of the Wool and Man-Made Fiber Textile Agreement of December 30, 1971, between the Governments of the United States and the Republic of China it would be appre-

ciated if you would increase the charges made against the following wool textile categories to the indicated levels within the established wool group ceilings:

Category	*Revised Charges*
103	37,529 pounds
121	158,736 numbers
122	3,618 numbers
125	435,860 pounds

The charges against man-made fiber textile Catgegory 219 should be reduced to reflect entries of 4,191,549 dozen. All of these levels have been adjusted to reflect entries through August 31, 1973.

Thank you for your assistance. This letter will be published in the Federal Register.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and
Deputy Assistant Secretary for Resources and Trade Assistance

---

(T.D. 73-268)

Foreign currencies—Certification of rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., September 18, 1973.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Division 73-190 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

India rupee:	
September 12, 1973	$0.1290
September 13, 1973	.1285
September 14, 1973	.1285

Ireland pound:	
September 4, 1973	$2.4410
September 5, 1973	2.4220
September 6, 1973	2.4220
September 7, 1973	2.4185
September 10, 1973	2.4125
September 11, 1973	2.4085
September 12, 1973	2.4065
September 13, 1973	2.4135
September 14, 1973	2.4115
New Zealand dollar:	
September 10, 1973	$1.4815
September 11, 1973	1.4825
September 12, 1973	1.4800
September 13, 1973	1.4750
September 14, 1973	1.4750
Norway krone:	
September 4, 1973	$0.1789
September 5, 1973	.1803
September 6, 1973	.1801
September 7, 1973	.1799
September 10, 1973	.1805
September 11, 1973	.1798
September 12, 1973	.1795
September 13, 1973	.1791
September 14, 1973	.1793
Sweden krona:	
September 13, 1973	$0.2361
United Kingdom pound:	
September 4, 1973	$2.4410
September 5, 1973	2.4220
September 6, 1973	2.4220
September 7, 1973	2.4185
September 10, 1973	2.4125
September 11, 1973	2.4085
September 12, 1973	2.4065
September 13, 1973	2.4135
September 14, 1973	2.4115

(LIQ-3-0:A:E)

JAMES D. COLEMAN,
Acting Director, Appraisement and Collections Division.

[Published in the Federal Register September 26, 1973 (38 FR 26820)]

(T.D. 73-269)

Revocation of customhouse cartman's license No. 20 issued at the Port of New Orleans to Jos. Jurisich Transfer & Storage, Inc.

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., September 21, 1973.

Notice is hereby given that on September 21, 1973, pursuant to the provisions of section 565, Tariff Act of 1930, as amended, and section 112.30, Customs Regulations, it was decided that customhouse cartman's license No. 20 issued at the Port of New Orleans on March 18, 1963, to Jos. Jurisich Transfer & Storage, Inc., New Orleans, be revoked. This revocation is effective on September 30, 1973.

(CAR-3-02)

VERNON D. ACREE,
Commissioner of Customs.

[Published in the Federal Register October 2, 1973 (38 FR 27306)]

(T.D. 73-270)

Cotton textiles—Restriction on entry

Restriction on entry of textile products in several categories under various bilateral agreements

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., September 24, 1973.

There is published below the directive September 6, 1973, received by the Commissioner of Customs from the Chairman, Committee for the Implementation of Textile Agreements, concerning the restriction on entry into the United States of textile products in several categories under the various bilateral agreements established under the Long-term Arrangement regarding International trade in cotton textiles (LTA). The instruction to our field offices is also published below.

The directive was published in the Federal Register on September 12, 1973 (38 FR 25216), by the Committee.

(QUO-2-1)

R. N. MARRA,
Director, Appraisement and Collections Division.

THE ASSISTANT SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230
COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

September 6, 1973.

COMMISSIONER OF CUSTOMS
Department of the Treasury
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

The following Part 6 Headnote is scheduled to be printed on October 1, 1973, to become effective on that day:

> Merchandise imported in sets, consisting of two or more separate articles and determined dutiable under a single 5-digit item number as an entirety, shall be reported statistically as separate articles under the most appropriate 7-digit reporting numbers within that same 5-digit grouping (including the provision for "other"), provided that this instruction shall not apply to statistical annotations specifically providing for the set, as in the case of suits.

Since many countries are presently classifying goods as entireties rather than separate articles, the Committee for the Implementation of Textile Agreements wishes to put into effect a period of transition to prevent any goods from being held up at ports because of classification difficulties. You are, therefore, directed, effective as soon as possible, and until November 30, 1973, to accept either the previous classification or the new classification regarding entireties as envisioned by the Statistical Headnote.

Goods from Taiwan and Korea which require a visa and a correct classification to be permitted entry, may be entered with either classification until the transition period ends on midnight November 30, 1973.

This letter will be published in the Federal Register.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance

MAN-5-O:A:A R
September 11, 1973

TELEGRAM

To all Regional Commissioners, District and Area Directors of Customs (except Virgin Islands)

Subject: Statistical reporting of entireties involving textile products

As a result of recent court decisions and subsequent rulings, an increasing volume of merchandise imported in sets and previously considered separate entities, is being classified as entireties. The resultant change in classification of this class of merchandise has disrupted the restraint levels applicable to several textile categories under the various bilateral agreements established under the Long-Term Arrangement Regarding International Trade in Cotton Textiles (LTA). Since renegotiation of the 38 agreements currently in effect was conceded to be impractical, it was decided to revise the statistical reporting requirements applicable to this class of merchandise. Statistical Headnote 1, Part 6, Schedule 3, was, accordingly, amended as follows and will be published October 1, 1973, as a supplement to the Tariff Schedules of the United States Annotated (TSUSA):

> 1. Merchandise imported in sets, consisting of two or more separate articles and determined dutiable under a single 5-digit item number as an entirety, shall be reported statistically as separate articles under the most appropriate 7-digit reporting numbers within that same 5-digit grouping (including the provision for "other"), provided that this instruction shall not apply to statistical annotations specifically providing for the set, as in the case of suits.

Since many countries are presently classifying textile products as entireties rather than separate articles, for purposes of export control, visas, etc., the Chairman of the Committee for the Implementation of Textile Agreements has requested Customs to establish an interim period of transition for implementation of this headnote, to prevent any goods from being held up at ports due to classification differences. You are, accordingly, directed, effective September 11, 1973, and until November 30, 1973, to accept entry of this merchandise under the appropriate statistical suffix for items classified dutiable as entireties, or the statistical suffix for the individual components under this revised headnote.

Goods from Taiwan and Korea, which require a visa reflecting the appropriate textile category applicable to tariff classification on entry, may likewise be entered for statistical purposes as either entireties or components thereof, until the transition period ends on midnight November 30, 1973.

An example of reporting the girl's tunic and pants set described

below under both current and amended procedures, for statistical purposes follows:

> The two-piece ensemble, in chief value of cotton, consisting a tunic (considered ornamental for tariff purposes) and long pants of the same denim-like material, coordinated in appearance and color (but not ornamented), are classifiable under the provision for girl's ornamented wearing apparel, of cotton, in item 382.00, TSUS.

	Country	*Quantity*	*Value*	*Tsusa No.*
Current	Taiwan	100 Doz. (600 lbs.)	7200	382.0090
Revised	Taiwan (Tunic)	100 Doz. (200 lbs.)	3000	382.0050
	(Pants)	100 Doz. (400 lbs.)	4200	382.0086

(Descriptions are explanatory only.)

This information should be brought to the attention of all interested parties.

Please refer any questions relating to these instructions by phone, to Mr. Ramsay or Mr. Mitrano of my staff. They may be reached at (202) 964-2957.

JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

520-901—73——2

Decisions of the United States Customs Court

Protest Decision

(C.D. 4469)

RACHELLE LABORATORIES, INC. *v.* UNITED STATES

Chemicals

NATURAL SUBSTANCE—CHANGE IN MOLECULAR STRUCTURE

The addition of hydrochloric acid to naturally-produced chlortetracycline changes the molecular structure of the latter substance, precluding the classification of the resulting chlortetracycline hydrochloride as a natural substance. *United States* v. *Pharmacia Fine Chemicals, Inc.*, 59 CCPA 196, C.A.D. 1066 (1972), cited and followed.

Court Nos. 71-10-01457 and 72-4-00812

Port of Los Angeles

[Judgment for defendant.]

(Decided September 14, 1973)

Glad, Tuttle & White (*Edward N. Glad* and *Gerald A. Koris* of counsel) for the plaintiff.

Irving Jaffe, Acting Assistant Attorney General (*Joseph I. Liebman*, trial attorney), for the defendant.

WATSON, Judge: In this case, the court is asked to decide whether the district director of customs was correct in finding that the imported merchandise, chlortetracycline hydrochloride, was not a natural substance. This involves the question of whether the imported merchandise has been subjected to a chemical reaction which changed the molecular structure of the original natural antibiotic. The claim covering the merchandise in entry 127340 of protest 27041001533 in Court No. 71-10-01457 having been abandoned is hereby dismissed.

This merchandise was classified as antibiotics, albeit, other than natural and not artificially mixed under TSUS item 437.32, as modified by T.D. 68-9, dutiable at the rate of 8 percent ad valorem or 7 percent ad valorem, depending upon the date of importation. Plaintiff agrees that this merchandise is an antibiotic. However, plaintiff contends that this antibiotic is natural and not artificially mixed as provided for in TSUS item 437.30, as modified by T.D. 68-9 and dutiable at the rate of 2 percent ad valorem. For the purpose of clarification, the following definitions and provisions are taken from the Tariff Schedules of the United States:

Schedule 4 headnotes:

* * * * * * *

2. (a) The term "compounds", as used in this schedule, means substances occurring naturally or produced artificially by the reaction of two or more ingredients, each compound—

(i) consisting of two or more elements,

(ii) having its own characteristic properties different from those of its elements and from those of other compounds, and

(iii) always consisting of the same elements united in the same proportions by weight with the same internal arrangement.

* * * * * * *

3. (a) The term "mixtures", as used in this schedule, means substances consisting of two or more ingredients (i.e., elements or compounds), whether occurring as such in nature, or whether artificially produced (i.e., brought about

by mechanical, physical, or chemical means), which do not bear a fixed ratio to one another and which, however thoroughly commingled, retain their individual chemical properties and are not chemically united. The fact that the ingredients of a product are incapable of separation or have been commingled in definite proportions does not in itself affect the classification of such product as a mixture.

Schedule 4, part 3:

Part 3 headnotes:

* * * * * * *

3. For the purposes of this part—

a. "natural substances" are those substances found in nature which comprise whole plants and herbs, anatomical parts thereof, vegetable saps, extracts, secretions and other constituents thereof; whole animals, anatomical parts thereof, glands or other animal organs, extracts, secretions and other constituents thereof, and which have not had changes made in their molecular structure as found in nature;

* * * * * * *

Subpart B:

	Antibiotics:	
437.30	Natural and not artificially mixed	2% ad val.
437.32	Other	8% ad val. [1969] 7% ad val. [1970]

The testimony of the witnesses has produced a difference of opinion as to the status of chlortectracycline hydrochloride (hereafter called CTC.HCL) and whether it is found in nature. Plaintiff presented a series of witnesses beginning with Mr. Charles V. Carroll who was in charge of production for Rachelle Laboratories and was personally familiar with the method of fermentation and extraction used to obtain chlortetracycline (hereafter called CTC) and CTC.HCL. Also appearing for plaintiff was Dr. Melvin Hochberg, president and general manager of plaintiff herein whose credentials established his expertise in chemistry to the satisfaction of the court.

Plaintiff's witnesses testified that it was their belief that CTC is found in nature but that there are no known commercial sources in nature of either CTC or CTC.HCL. Dr. Hochberg stated that CTC is produced naturally by microorganisms as essential, natural defenses against other organisms around them. Both Mr. Carroll and Dr. Hochberg testified CTC.HCL is present during the natural growth of CTC (an opinion later disputed by defense witnesses). Dr. Hochberg added that the organisms cannot produce CTC in other than an acid pH and in an acid pH the chloride-ion is present as HCL. Mr. Carroll said that during fermentation HCL becomes "loosely associated" with

CTC molecule but he was not sure if a chemical bond takes place during the "loose association". He also was not sure if the "loose association" could be broken by physical means. This witness also admitted that his usage of CTC and CTC.HCL interchangeably may have been incorrect.

Witnesses for both parties agree that the only commercial production of CTC is through fermentation. In the process of fermentation, a microorganism metabolizes the materials with which it is combined, producing a small amount of chlortetracycline. Testimony indicates that about 1 percent CTC is present once fermentation has ceased. To remove the chlortetracycline from the batch, one method is to add butanol and hydrochloric acid and with agitation and aging CTC.HCL is formed. This is then recovered by filtration, drying and packing. Another method used to remove the 1 percent of CTC would be to raise the pH of the medium so that it becomes alkaline and filter the insoluble CTC.

Defendant presented two witnesses, Dr. Milton Petty, professor of microbiology at California State University who was familiar with CTC from this work at American Cyanamid, and Dr. John Quinn, a chemist employed by the U.S. Customs Laboratory. Dr. Petty testified that CTC and CTC.HCL are different substances. Theoretically, some CTC.HCL might be formed in the medium when CTC is produced, but he knew of none, and stated the available facts were to the contrary. To elaborate on the difference between CTC and CTC.HCL, Dr. Petty pointed to the difference in the following areas. (1) melting points; (2) optical rotations; (3) solubilities; (4) infrared spectrums and (5) element analyses. CTC.HCL according to Dr. Petty, is more useful as an antibiotic than CTC because the former is more soluble in water and is therefore more readily absorbed by the gut upon administration. In his opinion, the molecular structure of CTC has been added to and changed when making CTC.HCL.

The witness contrasted the formation of CTC.HCL, which he opined could not occur at the fermentation pH with the precipitation of CTC by calcium. Due to the universal presence of calcium in soil, there was a distinct possibility that the formation of the calcium complex would occur in nature as a nautral incident of production. This would differ from the formation of CTC.HCL which could not form under the natural conditions of fermentation due to the improbability that conditions of an acidic pH would ordinarily be found in the fermentation area.

We have heard differing testimony on the point of whether the addition of hydrochloride during the manufacturing process changed the identity of the chlortetracycline. Plaintiff has argued that it is the CTC molecule in its original form which is essential as an antibiotic

and the addition of HCL is only one of two ways to stabilize it. Defendant has pointed out that only CTC.HCL is used as an antibiotic arguing that this emphasized its distinctness from the original CTC. The parties differ as to the precise relation between the CTC and the HCL in CTC.HCL. Plaintiff says it is a "loose association" without a chemical reaction but with a change in physical properties. Defendant says it is a chemical reaction resulting in a new substance possessing changed physical characteristics.

In evaluating the testimony, the first conclusion which emerges is that CTC.HCL has not been shown to be produced in nature. I am not convinced, as a theoretical matter, that the necessary acidic pH conditions exist under normal natural conditions. In addition, I would prefer, even if the theoretical ground is secure, some persuasive indication that the theoretical reaction does indeed take place in nature. I would for the most part require this additional step in those cases where, as here, there is genuine dispute as to the natural occurrence of the particular chemical reaction.

Since CTC.HCL, unlike CTC, has not been proven to be produced in nature, the only theory which will permit classifying it as a natural substance, is one which treats the addition of HCL as not changing the molecular structure of the original CTC. Only thus can CTC.HCL be said to satisfy the headnote definition of natural substances as substances "* * * which have not had changes made in their molecular structure as found in nature."

In light of the most recent opinion of the Court of Customs and Patent Appeals on this subject, it would appear that any theory which discounts the addition of HCL to the CTC is untenable. In *United States* v. *Pharmacia Fine Chemicals, Inc.*, 59 CCPA 196, C.A.D. 1066 (1972), our appellate tribunal held that the the shortening of a long molecular chain by hydrolysis was a change of molecular structure, particularly when the shortening was done to produce the only range of lengths which was medicinally useful. It now seems to me that a similar conclusion is unavoidable here and moreover is required by *a fortiori* reasoning. If a mere change in the length of molecule is a "molecular change", the addition of an entirely new substance to the basic natural substance must be considered a molecular change. I am unable to treat the linking of CTC to HCL as anything less definite than a chemical bonding. In the present state of proof, I must conclude that any such linkage, created for the purpose of making the original natural substance medicinally useful as a practical matter, is one which changes the molecular structure of the substance to the point where it can no longer be considered a natural substance within the meaning of the tariff schedules.

In this regard, I must now follow the basic distinction between natural and synthetic substances drawn by our appellate tribunal in the *Pharmacia* case, *supra*—" * * *a distinction between those substances which have and those substances which have not undergone chemical changes subsequent to their 'natural' production."

For the above reasons I hold that plaintiff has failed to prove that CTC.HCL is a natural substance within the meaning of the statute and the classification as other than natural antibiotics was proper.

Judgment will issue accordingly.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *September 17, 1973.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/861	Newman, J. September 10, 1973	American Honda Motor Co., Inc., et al.	65/24144, etc.	Item 653.40 19% (items marked "L") Item 688.15 17% (items marked "W") Item 685.90 17.5% (items marked "C")	Item 683.65 8.5% (items marked "L") Item 688.12 10% (items marked "W") Item 683.60 8.5% (items marked "C")	Agreed statement of facts	Los Angeles Electric lighting equipment designed for motor vehicles and parts thereof (items marked "L") Ignition wiring sets and wiring sets designed for use in motor vehicles and craft (items marked "W") Contact breakers or breaker assemblies, electrical starting and ignition equipment for internal combustion engines, and parts thereof (items marked "C")
P73/862	Rao, J. September 12, 1973	Pioneer Trading Co. et al.	62/7556, etc.	Par. 397 19%	Par. 339 12½% or 11%	Ignaz Strauss & Company, Inc. v. U.S. (C.A.D. 923 and C.D. 3627)	Los Angeles Brass candlesticks, candelabra, etc.
P73/863	Landis, J. September 12, 1973	United China & Glass Co.	68/5611, etc.	Item 533.73 45% and 10¢ per doz. pcs. or 40% and 9¢ per doz. pcs.	Item 534.94 45% or 40%	U.S. v. The Baltimore & Ohio R.R. Co., a/c United China and Glass Company (C.A.D. 719) New York Merchandise Co., Inc. v. U.S. (C.D. 3463)	New Orleans Decorated porcelain cups and saucers

P73/864	Maletz, J. September 12, 1973	C. L. Hutchins & Co., Inc. Imperial Rug Mills, Inc.	67/25245	Item 360.40 9¢ per lb.	Item 793.00 4%	Hoyt, Shepston & Sclaroni et al. v. U.S. (C.D. 2762) J. M. Evans & Company v. U.S. (C.D. 3809)	San Diego Used papermakers' dryer felts, which have through use become useless for the purpose for which originally manufactured, fit only for remanufacture for other purposes
P73/865	Re, J. September 12, 1973	New York Merchandise Co., Inc.	69/45617	Item 772.06 13.5% plus 16.5¢ per lb.	Item 772.15 13.5%	Davar Products, Inc. v. U.S. (C.D. 3880)	Portland, Oreg. Plastic snack sets
P73/866	Re, J. September 12, 1973	Toyomenka, Inc.	62/2524, etc.	Par. 405 20%	Par. 1403 12½%	Borneo Sumatra Trading Co., Inc. v. U.S. (C.D. 3880)	Tacoma (Seattle) Hardboard core plywood
P73/867	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	67/34320	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power
P73/868	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	67/61557	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power
P73/869	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	67/71769	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power
P73/870	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	68/50557	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P73/871	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	68/61153	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5% or 11%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3031)	Seattle Conveyor chain chiefly used for the transmission of power
P73/872	Watson, J. September 13, 1973	Border Borkerage Co, Inc.	68/61239	Item 652.35 or 657.20 19% or 17%	Item 652.18 11%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3031)	Seattle Conveyor chain chiefly used for the transmission of power
P73/873	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	68/61257	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D.3031)	Seattle Conveyor chain chiefly used for the transmission of power
P73/874	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	69/5184	Item 652.35 or 657.20 19% or 17%	Item 652.18 11%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3031)	Seattle Conveyor chain chiefly used for the transmission of power

P73/875	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	69/5185	Item 652.35 or 657.20 19% or 17%	Item 652.18 11%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power
P73/876	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	69/5224	Item 652.35 or 657.20 19% or 17%	Item 652.18 12.5%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power
P73/877	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	69/33003	Item 652.35 or 657.20 19% or 17%	Item 652.18 11%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power
P73/878	Watson, J. September 13, 1973	Border Brokerage Co., Inc.	70/21046	Item 652.35 or 657.20 19% or 17%	Item 652.18 11%	Judgment on the pleadings Kelco, Incorporated, et al. v. U.S. (C.D. 3931)	Seattle Conveyor chain chiefly used for the transmission of power

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decision

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R73/200	Re, J. September 12, 1973	J. Wm. Back Co. et al.	R58/9605, etc.	Export value: Net appraised value less 7¼%, net packed	Not stated	U.S. v. Getz Bros. & Co. et al. (C.A.D. 927)	Los Angeles Japanese plywood

Judgments of the United States Customs Court in Appealed Cases

SEPTEMBER 10, 1973

APPEAL 5494.—Ellis Silver Co., Inc. *v.* United States.—SILVER-PLATED HOLLOWWARE, REAPPRAISEMENT OF—CONSTRUCTED VALUE—EXPORT VALUE—ERRONEOUS APPRAISEMENT.—A.R.D. 293 affirmed May 17, 1973. C.A.D. 1100.

SEPTEMBER 11, 1973

APPEAL 5491.—United States *v.* Howard Hartry, Inc., also known as Howard Hartry Co. and Howard Hartry.—MARINE ENGINES WITH REVERSE AND REDUCTION GEARS—PARTS OF YACHTS OR PLEASURE BOATS—COMPRESSION IGNITION ENGINES—TSUS—(SEVERED PROTESTS).—C.D. 4296 reversed and remanded May 17, 1973. C.A.D. 1099.

Appeals to United States Court of Customs and Patent Appeals

APPEAL 74-13.—Pollard Bearings Corporation *v.* United States.—INTEGRAL SHAFT BEARINGS—PUMPS FOR LIQUIDS, PARTS OF—PISTON-TYPE ENGINES, PARTS OF—MOTOR VEHICLES, PARTS OF—TSUS

Merchandise described as fan and pump shaft bearing assemblies (known in the trade as integral shaft bearings) was held properly dutiable as assessed at 12 percent ad valorem under item 660.90, Tariff Schedules of the United States, as parts of pumps for liquids. Plaintiff-appellant claimed that the bearings were "more than" parts of pumps for liquids and were properly dutiable at 8.5 percent under item 660.52 as parts of piston-type engines or under item 692.25 as parts of motor vehicles. In its answer to plaintiff's complaint, defendant asserted an alternative claim that the merchandise is more specifically described in item 680.35 as ball or roller bearings than in item 660.52 or 692.25. It is claimed that the Customs Court erred in overruling the claims for classification of the merchandise under item 660.52 or 692.25, *supra*, and in not finding and holding that the bearings were erroneously classified under item 660.90, *supra*. Appeal from C.D. 4461.

APPEAL 74-14.—Madden Machine Company, Inc. *v.* United States.—ACTION DISMISSED FOR LACK OF JURISDICTION—REHEARING DENIED.

In this case, the Customs Court granted defendant's motion to dismiss the action for lack of jurisdiction; denied plaintiff's motion for leave to file a supplemental memorandum; and denied plaintiff's motion for a rehearing.

Plaintiff-appellant's statement of errors of law and fact complained of on appeal are as follows:

"1. The Customs Court erred in holding, in its order of July 25, 1973, that a protest against the denial of plaintiff's request for a reliquidation under Section 520(c)(1) of the Tariff Act (19 U.S.C.A. 1520(c)(1)) as in effect should have been made within 60 days after March 27, 1970. The request for reliquidation was not denied until January 22, 1971, and a protest against the denial was timely filed on March 22, 1971.

"2. The Customs Court erred in holding (if the Court so held) that plaintiff was required to make a request for reliquidation under Section 520(c)(1) of the Tariff Act as in effect within 60 days after liquidation, i.e. by May 26, 1970. Plaintiff claims that it was entitled to make, and did make, such a request within one year after the clerical error, mistake of fact or other inadvertence forming the basis for the request for reliquidation. Such clerical error, mistake of fact or other inadvertence related in this action to the appraisement made on January 19, 1970, and plaintiff's request for a reliquidation was made well within a year thereof.

"3. The Customs Court erred in holding (if the Court so held) that plaintiff was required to make such a request for reliquidation, in order to protest a denial of such a request under Section 514 of the Tariff Act (19 U.S.C.A. 1514) as in effect, within 60 days after liquidation. Plaintiff claims that the denial of its request for reliquidation, which request was timely made under Section 520(c)(1) of the Tariff Act as in effect, was protestable under Section 514, and that a timely protest of such denial was made.

"4. The Court erred in holding (if the Court so held) that the liquidation of March 27, 1970, was effective to set in motion any time limitation against plaintiff. Plaintiff claims that the liquidation was ineffective by reason of defendant's conceded failure to send a notice of liquidation to plaintiff."

Appeal from orders of the Court entered on June 5, 1973 and from the order entered on June 27, 1973 denying plaintiff's motion for rehearing.

Tariff Commission Notices

Investigations by the United States Tariff Commission

DEPARTMENT OF THE TREASURY, *September 27, 1973.*

The appended notices relating to investigations by the United States Tariff Commission are published for the information of Customs officers and others concerned.

VERNON D. ACREE,
Commissioner of Customs.

[332-70]

CONVERSION OF TARIFF SCHEDULES OF THE UNITED STATES INTO FORMAT OF BRUSSELS TARIFF NOMENCLATURE

Notice of change in deadline

On August 4, 1972, in response to a request by the President of the United States, the U.S. Tariff Commission instituted a study, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the preparation of a draft conversion of the Tariff Schedules of the United States (TSUS) to conform to the Brussels Tariff Nomenclature (BTN). The President has notified the Commission that the date for submission of the revised draft of the Tariff Schedules and a report on the probable economic effect on U.S. industries and trade if such revision were to be adopted has been extended from September 30, 1973, to September 30, 1974.

In due course the Commission will schedule public hearings in connection with the study. Appropriate public notice will be issued with respect to such hearings.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued September 19, 1973.

[TEA-W-211]

WORKERS' PETITION FOR A DETERMINATION UNDER SECTION 301(c)(2) OF THE TRADE EXPANSION ACT OF 1962

Notice of investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of M. Lauer,

Inc., Long Island City, New York, the United States Tariff Commission, on September 18, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700. 20, 700.45, 700.55 and 700.68 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the *Federal Register*.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued September 19, 1973.

[TEA-W-212]

WORKERS' PETITION FOR A DETERMINATION UNDER SECTION 301(c)(2) OF THE TRADE EXPANSION ACT OF 1962

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Forann Corporation, Brooklyn, New York, a subsidiary of Herbert Levine, Inc., New York, New York, the United States Tariff Commission, on September 19, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20, 700.45 and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the

subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the *Federal Register*.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued September 19, 1973.

[TEA-W-213]

WORKERS' PETITION FOR A DETERMINATION UNDER SECTION 301(c)(2) OF THE TRADE EXPANSION ACT OF 1962

Notice of investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Plant No. One, Toledo, Ohio, of the Mather Company, Sylvania, Ohio, the United States Tariff Commission, on September 20, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with springs and leaves for springs of base metal, suitable for motor vehicle suspension (of the types provided for in items 652.84 and 652.85 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the *Federal Register*.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued September 20, 1973.

[TEA-F-55]

PETITION OF MOXEES SHOE CORP., AUBURN, ME., A SUBSIDIARY OF MULTIVISIONS CORPORATION, FOR A DETERMINATION UNDER SECTION 301(c)(1) OF THE TRADE EXPANSION ACT OF 1962

Notice of investigation and hearing

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 by the Moxees Shoe Corp., Auburn, Me., a wholly-owned subsidiary of Multivisions Corporation, Bellows Falls, Vt., the United States Tariff Commission, on September 17, 1973, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women and children (of the types provided for in items 700.20, 700.43, 700.45 and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm or firms, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

A public hearing in connection with this investigation will be held beginning at 10 a.m., E.D.T., on Tuesday, October 9, 1973, in the Hearing Room, U.S. Tariff Commission Building, Eighth and E Streets, N.W., Washington, D.C. Requests for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, October 4, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, N.W., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission:

KENNETH R. MASON,
Secretary.

Issued September 20, 1973.

Index

U.S. Customs Service

Customs Court

Tariff Commission Notices

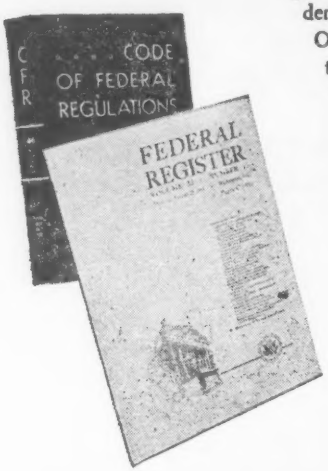
UNITED STATES
GOVERNMENT PRINTING
PUBLIC DOCUMENTS DEPARTMENT
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE

U.S.MAIL

The FEDERAL REGISTER . . .



publishes daily the full text of Presidential Proclamations, Executive Orders, and Reorganization Plans, together with Federal agency rules, regulations, notices, or similar documents having general applicability and legal effect.

The **FEDERAL REGISTER** is keyed to, and is a daily supplement to the *CODE OF FEDERAL REGULATIONS*. Sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, the **FEDERAL REGISTER** is priced at $25 a year; $2.50 a month.

The CODE OF FEDERAL REGULATIONS is a *codification* of rules and regulations issued by the administrative agencies of the Federal Government. Regulatory material published in the *Federal Register* is keyed to the *Code of Federal Regulations* which is published under 50 titles, pursuant to section 11 of the Federal Register Act, as amended.

For SAMPLE COPY of the FEDERAL REGISTER, write to:

Director, Office of the Federal Register,
National Archives and Records Service,
Washington, D.C. 20408

U.S. GOVERNMENT PRINTING OFFICE: 1973